

**REMARKS**

Claims 1-31 are pending in the application.

Claims 1-3, 5, 7, 8, 10-14, 16, 18, 19 & 21-31 have been rejected.

Claims 4, 6, 9, 15, 17 and 20 have been objected to.

Claims 24 and 31 have been amended.

Applicants appreciate the indicated allowability of claims 4, 6, 9, 15, 17 and 20 if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Rejection of Claims under 35 U.S.C. §112**

Claim 24 and 31 stand rejected under 35 U.S.C. §112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements. Applicants respectfully traverse this rejection. However, in order to expedite prosecution, Applicants have chosen to overcome this rejection by amendment. Amended claims 24 and 31 now include limitations of substantially the following form:

A method comprising:  
modifying data of a data volume to create modified data;  
a primary node transmitting the modified data to a first secondary node, wherein  
the first secondary node comprises a first replica of the data volume;  
the first secondary node receiving and processing the modified data to generate  
processed data, wherein the secondary node comprises a replica of a first  
data;  
transmitting the results of the data processing to the primary node, wherein the  
primary node comprises the first data;  
storing the results of the data processing in memory.

*See, e.g.*, claim 24. Applicants respectfully submit that such amendments are sufficient to overcome these rejections. Applicants therefore respectfully request the Examiner's reconsideration and withdrawal of the rejections to these claims and an indication of the allowability of same.

Rejection of Claims under 35 U.S.C. § 102(a)

Claims 24-31 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Applicant admitted prior art, namely the background section of Applicants' specification (page 1, paragraph [0001] to page 7, paragraph [0017]). Applicants respectfully traverse this rejection. For the purposes of this response only, Applicants will presume that the background section of the instant application constitutes prior art. Notwithstanding this presumption, claims 24-31 are distinguishable.

Independent claims 24 and 31 have been amended to include features similar to those found in independent claim 1. For example, claims 24 and 31 now include features of substantially the following form: "the first secondary node receiving and processing the modified data to generate processed data;" and "transmitting the results of the data processing to the primary node." The Office Action states that the APA discloses these features. Office Action, pp. 7-8. Applicants respectfully submit that these features are not disclosed by the APA.

For example, Applicants respectfully submit that the APA fails to disclose "transmitting the results of the data processing to the primary node," as recited by claim 1. As noted in previous responses, the section of the APA the Office Action cites as purportedly disclosing this feature (page 2, lines 3-4, cited at Office Action, p.2) refer to an example where the primary has been rendered inaccessible (inoperable) due to natural disaster or other catastrophic failure. In such case, a secondary node is able to receive data requests from a client and return the requested data to the client. *See* Application, ¶ 2. The cited section does not refer to returning data to the inoperable primary. *Id.*

Applicants further submit that the APA fails to disclose "the first secondary node receiving and processing the modified data to generate processed data," as recited in claim 1. The Office Action states that this feature is disclosed by the following passage of the APA: "the secondary hosts...include applications...configured to generate IO transactions for accessing data in replicas...." APA, ¶ 13, ll. 15-19 (cited at Office Action, p. 2). Applicants respectfully submit that the claimed "processing data" does not read on "generating IO transactions to access data." Such an interpretation is strained beyond the bounds permitted by Applicants' specification and beyond what one of ordinary skill would understand. Processing data includes such activities as checksumming, encryption, and data compression. *See, e.g.*, Application, ¶¶ 17 and 33.

Applicants respectfully submit that the ordinary usage of the claim term “processing data” would not be understood by one of ordinary skill to mean “generating IO transactions for accessing data,” even when the claim term is given its broadest reasonable meaning.

Applicants therefore respectfully request the Examiner’s reconsideration and withdrawal of the rejections to claims 24-31, and an indication of the allowability of same.

*Rejection of Claims under 35 U.S.C. § 103(a)*

Claims 1-3, 5, 7-8, 10-14, 16, 18-19 and 21-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Applicant’s admitted prior art in view of Yanai et al. (USPN 5,742,792) hereinafter referred to as (“Yanai”) and further in view of Kiselev (USPN 7,149,858) hereinafter referred to as (“Kiselev”). Applicants respectfully traverse this rejection. Applicants respectfully note that the Examiner removed Kiselev as a reference under 35 U.S.C 103(c). *See* Office Action mailed December 26, 2007, p. 4. Further, since these § 103 rejections depend on the same elements of the APA as the § 102 rejections above, Applicants respectfully submit that claims 1-3, 5, 7-8, 10-14, 16, 18-19 and 21-23 are allowable for at least the foregoing reasons. Applicants therefore respectfully request the Examiner’s reconsideration and withdrawal of the rejections to these claims and an indication of the allowability of same.

**CONCLUSION**

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5092.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicants hereby petition for such extensions. Applicants also hereby authorize that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to deposit account 502306.

Respectfully submitted,

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